

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

**CAMILLE BARKSDALE, individually and
on behalf of all others,**

Plaintiff,

v.

**REALPAGE, INC. d/b/a LEASING DESK
SCREENING,**

Defendant.

Case No.: 5:18-cv-6169

**DEFENDANT REALPAGE, INC.'S NOTICE OF REMOVAL OF CIVIL ACTION
PURSUANT TO 28 U.S.C. §§ 1331, 1441, AND 1446**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE THAT DEFENDANT RealPage, Inc. ("RealPage") hereby removes this action from the Circuit Court of Clinton County, Missouri, to the United States District Court for the Western District of Missouri, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, on the following grounds:

I. BACKGROUND

1. On October 15, 2018, Plaintiff Camille Barksdale ("Plaintiff") filed a Complaint against Defendant RealPage in the Circuit Court of Clinton County, Missouri, Case No. 18CN-CC00073 (the "State Court Action").

2. Plaintiff served RealPage with the Complaint and Summons in the State Court Action on October 19, 2018.

3. The Complaint alleges that RealPage violated the Fair Credit Reporting Act, 15 U.S.C. § 1681e(b).

II. REMOVAL JURISDICTION

4. Federal courts have original jurisdiction of all cases that arise under federal law, 28 U.S.C. § 1331, and such cases are explicitly within this Court’s removal jurisdiction. 28 U.S.C. § 1441(b) (providing that the courts have removal jurisdiction for any action in which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties, or laws of the United States).

5. The FCRA is a federal statute. The operative trigger for whether a claim can be brought for violation of a federal statute is whether the statute contains a private right of action. *Merrell Dow Pharmas. Inc. v. Thompson*, 478 U.S. 804 (1986). Congress created an express private right of action in the FCRA for consumers to enforce the Act’s provisions. *See* 15 U.S.C. §§ 1681n and 1681o.

6. In the Complaint, Plaintiff alleges that RealPage violated one provision of the FCRA, 15 U.S.C. § 1681e(b). This claim is founded entirely on the FCRA’s private right of action for consumers. This Court therefore has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, and this action could have been brought in federal court in the first instance.

7. Additionally, the FCRA specifically vests district courts with jurisdiction over any “action to enforce any liability created under [the FCRA].” 15 U.S.C. § 1681p. Because Plaintiff seeks to enforce liabilities created under the FCRA, this Court has express and exclusive jurisdiction, per statute, over this case.

III. COMPLIANCE WITH STATUTORY REQUIREMENTS

8. In accordance with 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings, and orders from the State Court Action are collectively attached hereto as Exhibit A.

Upon information and belief, no other related process, pleadings, or orders, including the complaints, have been served upon RealPage.

9. Because RealPage was served with the Complaint on October 19, 2018, its removal is timely because it is within thirty (30) days of service of the Complaint, as required by 28 U.S.C. § 1446(b)(1).

10. Venue of this removal is proper under 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district corresponding to the place where the State Court Action is pending. Specifically, Plaintiff filed this action in the Circuit Court of Clinton County, Missouri, (*see* Ex. A), which is located within the Western District of Missouri. Therefore, this action may be removed to this Court.

11. RealPage is the only Defendant in this case; thus, all Defendants to the claims over which this Court has original jurisdiction under 28 U.S.C. § 1331 have joined in or consented to removal of the Civil Action.

12. In accordance with 28 U.S.C. § 1446(d), a copy of RealPage's Notice of Filing of Notice of Removal is being filed contemporaneously with the Clerk of the Circuit Court of Clinton County, Missouri.

13. In accordance with 28 U.S.C. § 1446(d), RealPage is also contemporaneously serving this Notice of Removal on all adverse parties.

IV. RESERVATION OF RIGHTS

14. RealPage denies the allegations contained in Plaintiff's Complaint and files this Notice of Removal without waiving any defenses, objections, exceptions, or obligations that may exist in its favor in either state or federal court.

15. Further, in making the allegations in this Notice of Removal, RealPage does not concede in any way that the allegations in the Complaint are accurate, that Plaintiff has asserted claims upon which relief can be granted, or that recovery of any of the amounts sought is authorized or appropriate.

16. RealPage also reserves the right to amend or supplement this Notice of Removal. And, in this regard, if any questions arise as to the propriety of the removal of the State Court Action, RealPage expressly requests the opportunity to present a brief, oral argument, and any further evidence necessary in support of its position that this action is removable.

WHEREFORE, in accordance with the authorities set forth above, RealPage, Inc. hereby removes this action from the Circuit Court of Clinton County, Missouri, to the United States District Court for the Western District of Missouri and requests such other and further relief as the Court deems appropriate and just.

Dated: November 16, 2018

THOMPSON COBURN LLP

By: /s/ William R. Bay

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CERTIFICATE OF SERVICE

I hereby certify that on this the 16th day of November 2018, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF System. I further certify that I have served a copy of the foregoing document by U.S. First Class Mail on this the 16th day of November 2018:

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